



JFW 1/13/06

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No. 09/902,749

Filed: July 12, 2001

Confirmation No. 9603

In re Application of

Group Art Unit: 1661

Robert NOODELIJK

Examiner: Jane Hwu

For: CHRYSANTHEMUM PLANT NAMED 'SUNNY ELITE REAGAN'

REPLY TO REQUIREMENT FOR INFORMATION UNDER 37 CFR 1.105

US Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, Virginia 22314

Sir:

Applicant replies to the Requirement for Information mailed December 19, 2005 as follows.

Information to the public from the assignee regarding availability of the plant and where to purchase same would not have taken place until after December 12, 2001, the date of registration of the PBR at the Dutch office. Although the denomination was published June 16, 2001, assignee would not provide information about the plant to a member of the public until the PBR registration date of December 12, 2001. This date, of course, is after the filing date of the instant application on July 12, 2001. The policy of the assignee not to reveal information about a cultivar identified in a PBR publication only by a breeder's reference number is a constant ongoing policy, one which has been mentioned in a number of cases in the USPTO.

Enclosed herewith are copies of relevant pages from the 2000 and 2001 catalogs of the assignee. The cultivar 'Sunny Elite Reagan' appears in the 2001 catalog, which was first distributed in November, 2000 as 'Reagan Sunny Elite'. There is no mention of the variety in the 2000 catalog. Thus, the distribution of the 2001 catalog occurred less than a year before the filing date of the instant application.

Serial No. 09/902,749

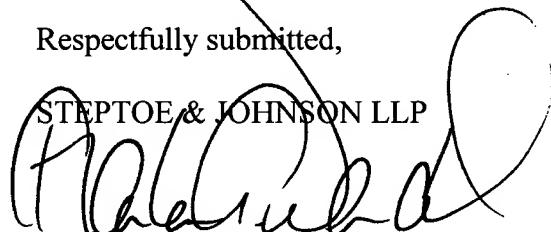
Applicant again points out that information regarding the variety is not made available by the assignee if only a breeders' reference is used to identify the plant in the PBR until after registration.

Regarding reproduction of the claimed plant variety, applicant points out that public access to the PBR records at the Dutch authority does not include the technical questionnaire which includes information on the mode of propagation and the breeding history. Such information also does not appear in the catalog. The Examiner is referred to the May 3, 2005 letter to Dr. Ying Fung of the assignee from the Secretary-General of the Dutch authority; see "Ad a" on page 1 of that letter.

An early allowance of the application is earnestly solicited.

Respectfully submitted,

STEPTOE & JOHNSON LLP


Charles A. Wendel
Registration No. 24,453

Date: February 21, 2006

STEPTOE & JOHNSON LLP
1330 Connecticut Ave., N.W.
Washington, DC 20036
Telephone: 202-429-3000

Enclosures: Pages from 2000 and 2001 CBA Catalogs
May 3, 2005 letter to Dr. Ying Fung

Old Attorney Docket No. CHRE:112
New Attorney Docket No. 28967.0112



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SPRAY CHRYSANTHEMUM

WHITE

ANEMONE	RELINDA	7.5	WHITE	CT	GREEN	01-32
	REWINNER	8	WHITE	CT	GREEN	50-36
DAISY	NEW ORBIT	7	WHITE		GREEN	06-36
	REAGAN ELITE WHITE	7	WHITE		GREEN	01-52
	REAGAN MUNDO WHITE	7	WHITE	CT	GREEN	01-52
	REAGAN WHITE	7.5	WHITE		GREEN	01-52
DECORATIVE	REBONNET	6.5	WHITE		WHITE	50-36
	REVEAL	7	WHITE		WHITE/GREEN	01-52
	NEW ATLAS	7.5	WHITE		GREEN	50-38
SPIDER	REFORM	8.5	WHITE	CT	WHITE	01-52

YELLOW • CREAM

ANEMONE	REQUIRE	7	YELLOW		YELLOW	01-35
	RELINDA'SUNNY	7.5	YELLOW	CT	GREEN	01-32
	REMCO YELLOW	7.5	YELLOW	CT	RED	50-32
	REGATTA	8	YELLOW		GREEN	01-32
DAISY	LUCKY LION SUNNY	6.5	YELLOW		GREEN	01-52
	RECOTTA YELLOW	6.5	YELLOW		GREEN	01-35
	REAGAN ELITE CREAM	7	CREAM		GREEN	01-52
	REAGAN ELITE SUNNY	7	SUNNY		GREEN	01-52
	REAGAN ELITE YELLOW	7	YELLOW		GREEN	01-52
	REAGAN CREAM	7.5	YELLOW		GREEN	01-52
	REAGAN GOLDEN	7.5	YELLOW		GREEN	01-52
	REAGAN LEMON	7.5	YELLOW		GREEN	01-52
	REAGAN MUNDO YELLOW	7.5	YELLOW	CT	GREEN	01-52
	REAGAN SULPHUR	7.5	YELLOW		GREEN	01-52
	REAGAN SUNNY	7.5	YELLOW		GREEN	01-52
	REAGAN YELLOW	7.5	YELLOW		GREEN	01-52
	REYELLOW	8	YELLOW		GREEN	01-52
	VYKING	8	YELLOW		BROWN	01-36
	REGOLTIME	9	YELLOW		GREEN	01-52
	VYRON	9	YELLOW	CT	BROWN	01-52
SPOON	REPULSE YELLOW	8	YELLOW		GREEN	05-32

YES! AVAILABLE COPY

PINK • VIOLET • PURPLE • SALMON • APRICOT • CHERRY

ANEMONE	NEW TITAN	7	PINK		GREEN	50-38
	REMCO APRICOT	7.5	APRICOT		ORANGE/RED	50-32
	REMCO LILAC	7.5	PINK		RED/PURPLE	50-32
DAISY	NEW REDOCK	6.5	PINK		GREEN	01-52
	NEW REDOCK IMPROVED	6.5	PINK		GREEN	01-52
	NEW REDOCK SALMON	6.5	SALMON		GREEN	01-52
	REAGAN ELITE	7	PINK		GREEN	01-52
	NEW REAGAN ELITE IMPROVED	7	PINK		GREEN	01-52
	REAGAN ELITE SALMON	7	SALMON		GREEN	01-52
	REAGAN	7.5	PINK		GREEN	01-52
	REAGAN CHERRY	7.5	CHERRY		GREEN	01-52
	REAGAN CURRENT	7.5	SALMON		GREEN	01-52
	REAGAN IMPROVED	7.5	PINK		GREEN	01-52

NAME RESPONSE COLOUR PETALS SPECIFICATION (CT=cold-tolerant) COLOUR CENTRE PL/WK



THE ART OF COFFEE BEDING



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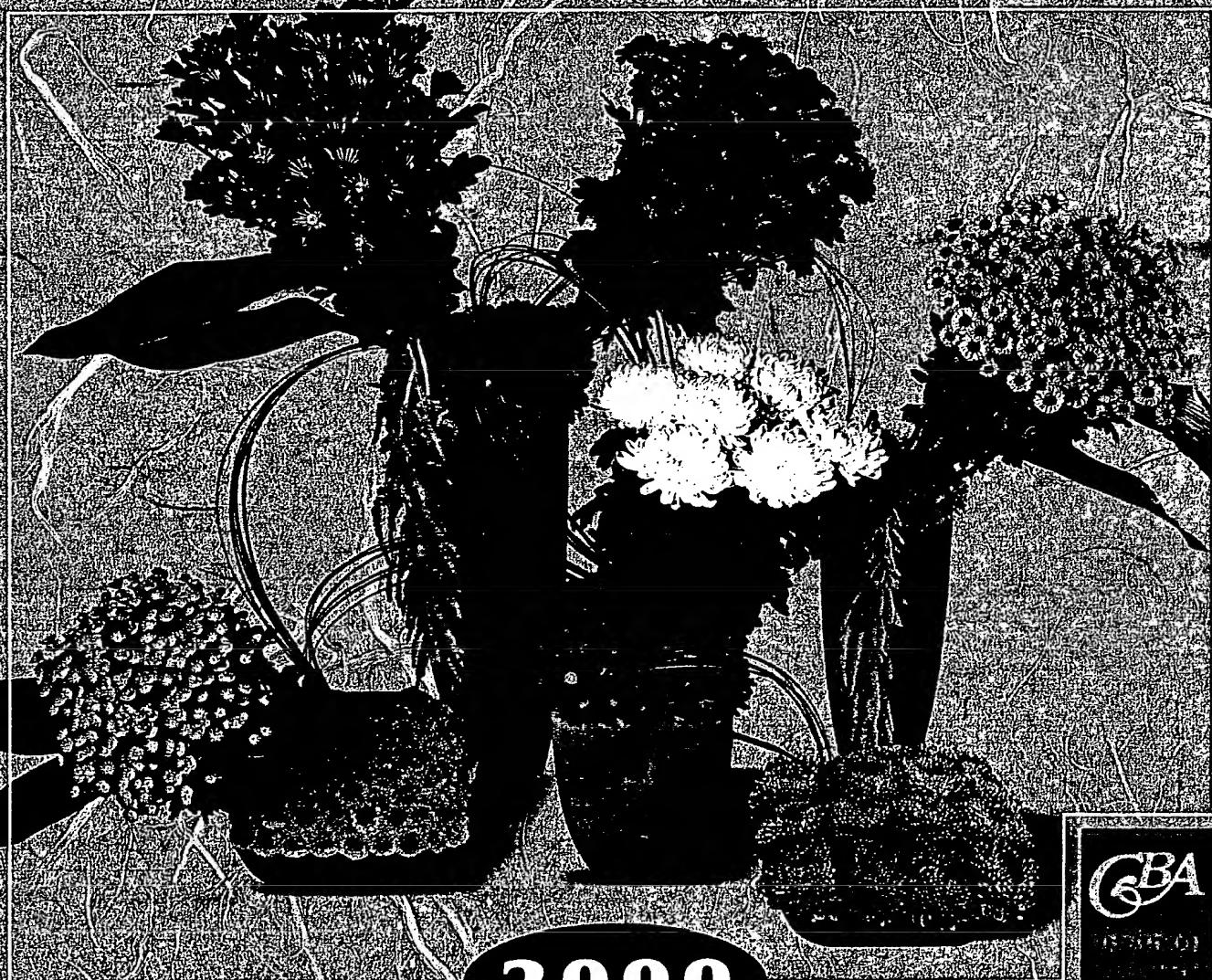
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CATALOGUE



2000



**SPRAY CHRYSANTHEMUM • SANTINI • DISBUD
POT CHRYSANTHEMUM • MULTIFLORA • UNIFLORA**

SPRAY CHRYSANTHEMUM

WHITE

ANEMONE	NEW	REPORT	7	WHITE	CT	GREEN	01-32
		REFOUR	7.5	WHITE		WHITE	01-32
		RELINDA	7.5	WHITE		GREEN	01-32
		REWINNER	8	WHITE		GREEN	50-36
		REWING	7	WHITE		GREEN/WHITE	01-34
		REBLANCHE	7	WHITE		GREEN	01-35
		REAGAN MUNDO WHITE	7	WHITE		GREEN	01-52
		REAGAN ELITE WHITE	7	WHITE		GREEN	01-52
		REAGAN WHITE	7.5	WHITE		GREEN	01-52
		RESPECTFUL	8	WHITE		YELLOW/GREEN	01-52
DAISY	NEW	REBONNET	6.5	WHITE	CT	WHITE	50-36
		REVEAL	7	WHITE		WHITE/GREEN	01-52
		RECITAL	8	WHITE		WHITE	50-32
DECORATIVE	NEW	REFLECT	8	WHITE	CT	WHITE	01-36
		REFORM	8.5	WHITE		WHITE	01-52

YELLOW • CREME

ANEMONE	NEW	REQUIRE	7	YELLOW	CT	YELLOW	01-35
		REACTION	7.5	YELLOW		YELLOW	01-52
		RELINDA SUNNY	7.5	YELLOW		GREEN	01-32
		REMCO YELLOW	7.5	YELLOW		RED	50-32
		REGATTA	8	YELLOW		GREEN	01-32
		RECOTJA YELLOW	6.5	YELLOW		GREEN	01-35
		LUCKY LION CREAM	6.5	CREAM		GREEN	01-52
		LUCKY LION	6.5	YELLOW		GREEN	01-52
		LUCKY LION SUNNY	6.5	YELLOW		GREEN	01-52
		REAGAN CREAM	7.5	YELLOW		GREEN	01-52
		REAGAN ELITE CREAM	7	YELLOW		GREEN	01-52
		REAGAN GOLDEN	7.5	YELLOW		GREEN	01-52
		REAGAN LEMON	7.5	YELLOW		GREEN	01-52
		REAGAN MUNDO YELLOW	7.5	YELLOW		GREEN	01-52
		REAGAN SULPHUR	7.5	YELLOW		GREEN	01-52
		REAGAN SUNNY	7.5	YELLOW		GREEN	01-52
		REAGAN YELLOW	7.5	YELLOW		GREEN	01-52
		REYELLOW	8	YELLOW		GREEN	01-52
		VYKING	8	YELLOW		BROWN	01-36
DAISY	NEW	VYSTAR IMPROVED	8.5	YELLOW	CT	GREEN	01-52
		REGOLTIME	9	YELLOW		GREEN	01-52
		VYRON	9	YELLOW		GREEN	01-52
		REGIRO	7	YELLOW		BROWN	01-52
SPIDER	NEW	REPULSE YELLOW	8	YELLOW	CT	YELLOW/GOLDEN	01-35
						GREEN	05-32
PINK • VIOLET • PURPLE • SALMON • APRICOT • CHERRY							
ANEMONE	NEW	REMCO APRICOT	7.5	APRICOT	CT	ORANGE/RED	50-32
		REMCO LILAC	7.5	PINK		RED/PURPLE	50-32
		REAGAN ELITE	7	PINK		GREEN	01-36
		REMERO	7.5	PINK/WHITE TIP		GREEN	01-52
		REAGAN PEACH	7.5	APRICOT		GREEN	01-52
		REAGAN SPLENDID	7.5	PURPLE		GREEN	01-52
		REAGAN SPLENDID DARK	7.5	PURPLE		GREEN	01-52
		REAGAN ROSY	7.5	ROSY		GREEN	01-52
		REAGAN ROSY DARK	7.5	ROSY		GREEN	01-52



THE ART OF BREEDING

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CBA Research B.V.
t.a.v. Mevr. Y. Fung
Postbus 370
1430 AJ AALSMEER

ONTVANGEN 06 MEI 2005

Ede, 03-05-2005

Your Letter of :
Your reference :
Our reference : 2005062
Subject : Breeding history

Dear Mrs. Fung,

Answering your question about the policy of the Board for Plant Breeders' Rights in the Netherlands concerning the access to the breeding history of varieties, I inform you as follows.

As far as information concerning varieties is concerned one should make a distinction between

- a. Information by the breeder in order to facilitate the examination of the application for PBR, mostly given in the technical questionnaire (TQ) attached to the application form;
- b. Data gained from the official examination in order to describe the variety.

Ad a

The breeder's information (which is not per se correct) is used to compare the candidate variety with the proper reference varieties. Prominent morphological characteristics serve that purpose, but also knowledge about the background of the candidate variety, also called "the breeding history", is important in that connection.

Data about the breeding history are required only for the purpose of an efficient examination and are strictly confidential. The TQ, including these data, is no part of the official register. The Board for Plant Breeders' Rights will not inform third parties about the breeding history without authorization of the applicant or his successor in title.

Important data concerning the breeding history are:

Is the candidate variety a mutant and, if so, of which variety?

In the case of synthetic or hybrid varieties: which components or inbred lines are involved and which is the formula?

Ad b

Data gained from the official examination are comprised in a variety description. Such descriptions do not contain the breeding history of the varieties concerned. The variety description is included in the official Dutch Variety Register. Since the register is open to the public, third parties can obtain descriptions of the registered varieties. However, through those descriptions they are not informed about the breeding histories.

I trust I have informed you adequately.

Yours sincerely,

K.A. Fikkert,
Secretary-General

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